

Docket No.: 01.39

T.H.  
5-13-03  
T/C/1/09  
for  
Rec

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Wolf, Shane

Serial No.: 09/923,113

Group Art Unit: 3732

Filed: August 6, 2001

Examiner: T. Manahan

For: Stress Relieving Gel Handle Tools For Salon And Spa

## Response Pursuant To 37 C.F.R. 1.116

Assistant Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

This request for reconsideration is made in light of the fact that the present, final office action contains Examiner's reasoning in support of an obviousness rejection, which reasoning was not earlier presented. This then, is the first opportunity for the applicant to respond to the Examiner on this point. The Examiner and applicant have a joint obligation to develop clear issues of rejection before, not concurrent with, the final office action or appeal (MPEP 706.07). In view of this, the applicant urges the Examiner to consider the following remarks which are believed to demonstrate that the application is in a condition for allowance or at least clarify issues for appeal should the rejection be maintained.

Writer's direct Tele.: (631) 531-1193  
 Writer's direct Fax: (631) 531-1340

Estee Lauder Companies

# Fax

To:	EXAMINED Todd E. MANAHAN GAR 3732	From:	Peter Giancana ESTEE LAUDER COMPANIES 125 Pinelawn Road Legal Dept. - Research Park Melville, New York 11747 Ext. (631) 531-1193 Fax: (631) 531-1340
Fax:	703-872-9303	Pages:	6 Including Cover Page
Re:	09/923, 113	Date:	May 9, 2003

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 GROUP 3700

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TRANSMITTAL  
FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

Application Number	09/923113
Filing Date	Aug 6, 2001
First Named Inventor	WOLF
Art Unit	3732
Examiner Name	Manahan
Attorney Docket Number	01.39

6

## ENCLOSURES (Check all that apply)

<input checked="" type="checkbox"/> Fee Transmittal Form	1 pg	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance Communication to a Technology Center (TC)
<input type="checkbox"/> Fee Attached		<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input checked="" type="checkbox"/> Amendment/Reply	3 pg	<input type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
<input checked="" type="checkbox"/> After Final		<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)		<input type="checkbox"/> Power of Attorney, Revocation	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request		<input type="checkbox"/> Change of Correspondence Address	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request		<input type="checkbox"/> Terminal Disclaimer	<input type="checkbox"/> FAX Cover Letter 1 pg
<input type="checkbox"/> Information Disclosure Statement		<input type="checkbox"/> Request for Refund	
<input type="checkbox"/> Certified Copy of Priority Document(s)		<input type="checkbox"/> CD, Number of CD(s)	
<input type="checkbox"/> Response to Missing Parts/ Incomplete Application		Remarks	
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53			

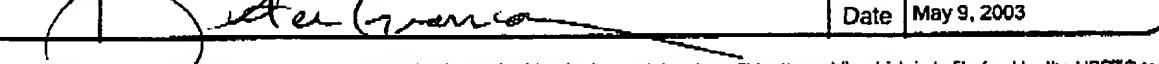
FAX RECEIVED  
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## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual	Peter Giancana
Signature	
Date	May 9, 2003

## CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, Washington, DC 20231 on this date: May 9, 2003

Typed or printed	Peter Giancana
Signature	
Date	May 9, 2003

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including the gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Washington, DC 20231.

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# FEE TRANSMITTAL for FY 2003

Effective 01/01/2003. Patent fees are subject to annual revision.

 Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT

(\$ 0)

## Complete if Known

Application Number	09/923113
Filing Date	Aug 6, 2001
First Named Inventor	WOLF
Examiner Name	Manahan
Art Unit	3732
Attorney Docket No.	01.39

## METHOD OF PAYMENT (check all that apply)

 Check  Credit card  Money Order  Other  None
 Deposit Account:

Deposit Account Number

05-1320

Deposit Account Name

Estee Lauder

## The Director is authorized to: (check all that apply)

Charge fee(s) indicated below  Credit any overpayments  
 Charge any additional fee(s) during the pendency of this application  
 Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

## FEE CALCULATION

## 1. BASIC FILING FEE

Large Entity	Small Entity	Fee Code (\$)	Fee Code (\$)	Fee Description	Fee Paid
1001 750	2001 375	Utility filing fee			
1002 330	2002 165	Design filing fee			
1003 520	2003 260	Plant filing fee			
1004 750	2004 375	Reissue filing fee			
1005 160	2005 80	Provisional filing fee			
SUBTOTAL (1) (\$)					

## 2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims	Independent Claims	Multiple Dependent	Extra Claims	Fee from below	Fee Paid
9	1		2-4	0	0
			-20**		

Large Entity	Small Entity	Fee Code (\$)	Fee Code (\$)	Fee Description
1202 18	2202 9	Claims in excess of 20		
1201 84	2201 42	Independent claims in excess of 3		
1203 280	2203 140	Multiple dependent claim, if not paid		
1204 84	2204 42	** Reissue independent claims over original patent		
1205 18	2205 9	** Reissue claims in excess of 20 and over original patent		
SUBTOTAL (2) (\$ 0)				

\*or number previously paid, if greater. For Reissues, see above

## FEE CALCULATION (continued)

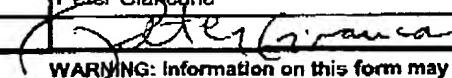
## 3. ADDITIONAL FEES

Large Entity	Small Entity	Fee Code (\$)	Fee Code (\$)	Fee Description	Fee Paid
1051 130	2051 65	Surcharge - late filing fee or oath			
1052 50	2052 25	Surcharge - late provisional filing fee or cover sheet			
1053 130	1053 130	Non-English specification			
1812 2,520	1812 2,520	For filing a request for ex parte reexamination			
1804 920*	1804 920*	Requesting publication of SIR prior to Examiner action			
1805 1,840*	1805 1,840*	Requesting publication of SIR after Examiner action			
1251 110	2251 55	Extension for reply within first month			
1252 410	2252 205	Extension for reply within second month			
1253 930	2253 465	Extension for reply within third month			
1254 1,450	2254 725	Extension for reply within fourth month			
1255 1,970	2255 985	Extension for reply within fifth month			
1401 320	2401 160	Notice of Appeal			
1402 320	2402 160	Filing a brief in support of an appeal			
1403 260	2403 140	Request for oral hearing			
1451 1,510	1451 1,510	Petition to institute a public use proceeding			
1452 110	2452 55	Petition to revive - unavoidable			
1453 1,300	2453 650	Petition to revive - unintentional			
1501 1,300	2501 650	Utility issue fee (or reissue)			
1502 470	2502 235	Design issue fee			
1503 630	2503 315	Plant issue fee			
1460 130	1460 130	Petitions to the Commissioner			
1807 50	1807 50	Processing fee under 37 CFR 1.17(q)			
1806 180	1806 180	Submission of Information Disclosure Stmt			
8021 40	8021 40	Recording each patent assignment per property (times number of properties)			
1809 750	2809 375	Filing a submission after final rejection (37 CFR 1.129(e))			
1810 750	2810 375	For each additional invention to be examined (37 CFR 1.129(b))			
1801 750	2801 375	Request for Continued Examination (RCE)			
1802 900	1802 900	Request for expedited examination of a design application			

Other fee (specify) \_\_\_\_\_

\*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$ 0)

(Complete if applicable)			
Name (Print/Type)	Peter Giacanca	Registration No. (Attorney/Agent)	44706
Signature		Date	May 9, 2003

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.